

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/10/2021

JOHNNIE BYNUM, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

FAMILY DOLLAR STORES, INC.,

Defendant.

1:20-cv-06878-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On February 3, 2021, Defendant filed a letter requesting a pre-motion conference in connection with Defendant's anticipated motion to dismiss. [ECF No. 10.] Plaintiff responded advising the Court that he "will file an amended complaint on or before Wednesday, February 24, 2021, 21 days after defendant's letter-motion was served." [ECF No. 12.]

Plaintiff misconstrues Defendant's pre-motion letter as a motion under Federal Rule of Civil Procedure 12(b). *See* Fed. R. Civ. P. 15(a)(1)(B). In any event, it is in the interest of judicial economy for Plaintiff to amend now rather than in response to Defendant's anticipated Rule 12(b) motion. Accordingly, IT IS HEREBY ORDERED that insofar as leave is required for Plaintiff to file an amended complaint, such leave is GRANTED. Plaintiff shall file an amended complaint on or before February 24, 2021.

SO ORDERED.

Date: February 10, 2021
New York, NY


MARY KAY VYSKOCIL
United States District Judge